

Executive Summary – Enforcement Matter – Case No. 52186

City of Byers

RN101720415

Docket No. 2016-0548-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Byers WWTF, located approximately 400 feet east of Byers City Lake in Byers and approximately 4,000 feet northwest of the intersection of Farm-to-Market Road 171 and State Highway 79, Clay County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 29, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$9,062

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$9,062

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 52186

City of Byers

RN101720415

Docket No. 2016-0548-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 2, 2016

Date(s) of NOE(s): April 4, 2016

Violation Information

Failed to comply with permitted effluent limitations for 5-day biochemical oxygen demand, *Escherichia coli*, daily average flow, and total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010890001, Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to, within 90 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No.

WQ0010890001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Sandra Douglas, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2549; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

TCEQ SEP Coordinator: N/A

Respondent: The Honorable Carl Barnhill, Mayor, City of Byers, P.O. Box 265, Byers, Texas 76357

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	11-Apr-2016	Screening	13-Apr-2016	EPA Due	
	PCW	15-Apr-2016				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Byers		
Reg. Ent. Ref. No.	RN101720415		
Facility/Site Region	3-Abilene	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	52186	No. of Violations	2
Docket No.	2016-0548-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Sandra Douglas
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$6,250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	45.0%	Adjustment	Subtotals 2, 3, & 7	\$2,812
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Notes Enhancement for five months of self-reported effluent violations and one agreed order with denial of liability.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$885
Estimated Cost of Compliance	\$10,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$9,062
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$9,062
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$9,062
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$9,062
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Screening Date 13-Apr-2016

Docket No. 2016-0548-MWD-E

PCW

Respondent City of Byers

Policy Revision 4 (April 2014)

Case ID No. 52186

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101720415

Media [Statute] Water Quality

Enf. Coordinator Sandra Douglas

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	5	25%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 45%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for five months of self-reported effluent violations and one agreed order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 45%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 45%

Screening Date 13-Apr-2016

Docket No. 2016-0548-MWD-E

PCW

Respondent City of Byers

Policy Revision 4 (April 2014)

Case ID No. 52186

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101720415

Media [Statute] Water Quality

Enf. Coordinator Sandra Douglas

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010890001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limitations, as documented during a record review conducted on March 2, 2016, and shown in the attached effluent violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand (5-day) to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids and flow were also considered. Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2

122 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended for the quarters containing the months of May, June, July, and November of 2015.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$885

Violation Final Penalty Total \$3,625

This violation Final Assessed Penalty (adjusted for limits) \$3,625

Economic Benefit Worksheet

Respondent City of Byers
Case ID No. 52186
Reg. Ent. Reference No. RN101720415
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	31-May-2015	7-Mar-2017	1.77	\$885	n/a	\$885

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and make any necessary repairs/adjustments to the Facility. Date required is the end date of the first month of noncompliance and the final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$885

Screening Date 13-Apr-2016

Docket No. 2016-0548-MWD-E

PCW

Respondent City of Byers

Policy Revision 4 (April 2014)

Case ID No. 52186

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101720415

Media [Statute] Water Quality

Enf. Coordinator Sandra Douglas

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010890001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limitations, as documented during a record review conducted on March 2, 2016, and shown in the attached effluent violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand (5-day) to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids and *E. Coli* were also considered. Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

31 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One monthly event is recommended for the month of October 2015.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDP RP/Settlement Offer

Extraordinary	
Ordinary	
N/A	x

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$5,438

This violation Final Assessed Penalty (adjusted for limits) \$5,438

Economic Benefit Worksheet

Respondent City of Byers
Case ID No. 52186
Reg. Ent. Reference No. RN101720415
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit for this violation is included with Violation No. 1.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

City of Byers
Docket Number 2016-0548-MWD-E
TPDES Permit No. WQ0010890001

Effluent Violation Table

	BOD (5-day)	<i>Escherichia coli</i>	Flow	Total Suspended Solids	
	Daily Average Conc.	Single Grab Conc.	Daily Average	Daily Average Conc.	Daily Average Loading
Month/Year	Limit = 20 mg/L	Limit = 399 CFU/100 ml	Limit = 0.043 MGD	Limit = 20 mg/L	Limit = 7.2 lbs/d
May 2015	c	c	0.0631	c	9.03
June 2015	c	c	0.099	c	c
July 2015	c	c	0.0717	c	c
October 2015	27	2,400	c	34.7	c
November 2015	21.3	c	c	30.8	c

BOD = biochemical oxygen demand

CFU/100 ml = colony-forming units per 100 milliliters

mg/L = milligrams per liter

MGD = million gallons per day

c = compliant

Conc. = concentration

lbs/d = pounds per day



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN600674782, RN101720415, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator:	CN600674782, City of Byers	Classification:	SATISFACTORY	Rating:	5.96
Regulated Entity:	RN101720415, City of Byers WWTF	Classification:	SATISFACTORY	Rating:	5.96
Complexity Points:	7	Repeat Violator:	NO		
CH Group:	08 - Sewage Treatment Facilities				
Location:	LOCATED APPROXIMATELY 400 FEET EAST OF BYERS CITY LAKE IN THE CITY OF BYERS AND APPROXIMATELY 4,000 FEET NORTHWEST OF THE INTERSECTION OF FARM-TO-MARKET ROAD 171 AND STATE HIGHWAY 79 IN CLAY COUNTY, TEXAS				
TCEQ Region:	REGION 03 - ABILENE				
ID Number(s):	WASTEWATER PERMIT WQ0010890001 WASTEWATER EPA ID TX0075442				
Compliance History Period:	September 01, 2010 to August 31, 2015	Rating Year:	2015	Rating Date:	09/01/2015
Date Compliance History Report Prepared:	April 12, 2016				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	April 12, 2011 to April 12, 2016				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Sandra Douglas		Phone:	(512) 239-2549	

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |
| 5) If YES , when did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- | | | | | |
|---|-----------------|--|-----------------------------|---------------------------------------|
| 1 | Effective Date: | 11/18/2011 | ADMIN ORDER 2011-0743-MWD-E | (1660 Order-Agreed Order With Denial) |
| | Classification: | Moderate | | |
| | Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a)(1) | | |
| | | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| | Rqmt Prov: | Effluent Limits & Mon. Req. No. 1 PERMIT | | |
| | Description: | Failed to comply with the permitted effluent limitations | | |
| | Classification: | Moderate | | |
| | Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| | | 30 TAC Chapter 319, SubChapter A 319.5(b) | | |
| | Rqmt Prov: | Monitoring & Reporting Req. No. 1 PERMIT | | |
| | Description: | Failed to analyze samples for Eschericia coli for the quarterly monitoring period ending November 30, 2010 | | |
| | Classification: | Moderate | | |
| | Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| | | 30 TAC Chapter 305, SubChapter F 305.125(17) | | |
| | Rqmt Prov: | Sludge Reporting Requirements PERMIT | | |
| | Description: | Failure to timely submit the annual sludge report for the monitoring period ending July 31, 2010 | | |

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	May 24, 2011	(927953)	Item 22	January 03, 2014	(1154239)
Item 2	September 12, 2011	(966331)	Item 23	February 07, 2014	(1161556)
Item 3	October 13, 2011	(972348)	Item 24	March 10, 2014	(1168190)
Item 4	November 07, 2011	(978505)	Item 25	April 09, 2014	(1175353)
Item 5	January 09, 2012	(991599)	Item 26	June 05, 2014	(1181544)
Item 6	June 11, 2012	(1025206)	Item 27	July 07, 2014	(1194167)
Item 7	October 08, 2012	(1066045)	Item 28	August 12, 2014	(1200159)
Item 8	November 15, 2012	(1066046)	Item 29	September 04, 2014	(1206809)
Item 9	December 10, 2012	(1066047)	Item 30	October 03, 2014	(1213219)
Item 10	January 10, 2013	(1081134)	Item 31	November 10, 2014	(1219475)
Item 11	February 07, 2013	(1081133)	Item 32	December 04, 2014	(1225260)
Item 12	March 07, 2013	(1090352)	Item 33	January 09, 2015	(1232200)
Item 13	April 04, 2013	(1096711)	Item 34	February 06, 2015	(1243275)
Item 14	May 09, 2013	(1107672)	Item 35	March 05, 2015	(1249641)
Item 15	June 25, 2013	(1111310)	Item 36	April 09, 2015	(1256525)
Item 16	July 10, 2013	(1118208)	Item 37	June 15, 2015	(1263261)
Item 17	August 13, 2013	(1126001)	Item 38	September 08, 2015	(1291262)
Item 18	September 05, 2013	(1130552)	Item 39	October 08, 2015	(1297450)
Item 19	October 07, 2013	(1136322)	Item 40	January 08, 2016	(1316639)
Item 20	November 08, 2013	(1141701)			
Item 21	December 09, 2013	(1148168)			

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date: 05/31/2015 (1270399)	CN600674782	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
2	Date: 06/30/2015 (1277929)	CN600674782	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
3	Date: 07/31/2015 (1284104)	CN600674782	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
4	Date: 10/31/2015 (1302894)	CN600674782	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
5	Date: 11/30/2015 (1309881)	CN600674782	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

All NOV's Issued During Component Period 4/12/2011 and 4/12/2016

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9 Date: 04/30/2012 (1017406) CN600674782
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

10 Date: 06/30/2012 (1032544) CN600674782
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

11 Date: 07/31/2012 (1066043) CN600674782
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

12 Date: 08/31/2012 (1066044) CN600674782
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

13 Date: 10/09/2012 (1036249) CN600674782
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Operational Requirements PERMIT
Description: Failure to properly operate and maintain the WWTP.
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Operational Requirements PERMIT
Description: Failure to prevent the discharge of sludge solids into the receiving stream.

14 Date: 11/21/2012 (1046316) CN600674782
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Limitations PERMIT
Description: Failure to maintain the effluent limitations of the discharge permit.

15 Date: 07/02/2013 (1100600)CN600674782
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Limitations PERMIT
Description: Failure to maintain the effluent limitations of the discharge permit.
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Operational Requirements PERMIT
Description: Failure to properly operate all treatment units and maintain adequate process control.
Classification: Moderate

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Sludge Provisions PERMIT
Description: Failure to submit the Annual Sludge Report for the period of August 1, 2011, to July 31, 2012, by September 1, 2012.
Classification: Moderate

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Monitoring and Reporting Requirements PERMIT
Description: Failure to properly maintain the flow meter.
Classification: Moderate

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Monitoring and Reporting Requirements PERMIT
Description: Failure to properly calculate the TSS Daily Average concentrations reported on the monthly DMRs.
Classification: Minor

Self Report? YES For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Monitoring and Reporting Requirements PERMIT
Description: Failure to properly record dissolved oxygen (D.O.) measurements reported on the monthly DMRs.
Classification: Moderate

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 319, SubChapter A 319.9(d)
Monitoring and Reporting Requirements PERMIT
Description: Failure to conduct a calibration of the D.O. meter each day the effluent D.O. is analyzed.
Classification: Minor

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 319, SubChapter A 319.11(c)
Monitoring and Reporting Requirements PERMIT
Description: Failure to conduct a manganese correction for the total chlorine residual analysis.

16* Date: 05/31/2015 (1270399) CN600674782
Classification: Moderate

Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

17* Date: 06/30/2015 (1277929) CN600674782
Classification: Moderate

Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

18* Date: 07/31/2015 (1284104) CN600674782
Classification: Moderate

Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

19 Date: 10/31/2015 (1302894) CN600674782
Classification: Moderate

Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

20 Date: 11/30/2015 (1309881) CN600674782
 Classification: Moderate
 Self Report? YES For Informational Purposes Only
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

* NOVs applicable for the Compliance History rating period 9/1/2010 to 8/31/2015

Appendix B

All Investigations Conducted During Component Period April 12, 2011 and April 12, 2016

Item 1	May 05, 2011**	(913929) For Informational Purposes Only
Item 2	May 13, 2011**	(939005) For Informational Purposes Only
Item 3*	May 24, 2011**	(927953) For Informational Purposes Only
Item 4	June 09, 2011**	(946381) For Informational Purposes Only
Item 5	July 08, 2011**	(953661) For Informational Purposes Only
Item 6	August 08, 2011**	(960284) For Informational Purposes Only
Item 7*	September 12, 2011**	(966331) For Informational Purposes Only
Item 8*	October 13, 2011**	(972348) For Informational Purposes Only
Item 9*	November 07, 2011**	(978505) For Informational Purposes Only
Item 10	December 14, 2011**	(985321) For Informational Purposes Only
Item 11*	January 09, 2012**	(991599) For Informational Purposes Only
Item 12	January 19, 2012**	(976482) For Informational Purposes Only
Item 13	February 13, 2012**	(998944) For Informational Purposes Only
Item 14	March 08, 2012**	(1004472) For Informational Purposes Only
Item 15	April 11, 2012**	(1011043) For Informational Purposes Only
Item 16	May 08, 2012**	(1017406) For Informational Purposes Only
Item 17*	June 11, 2012**	(1025206) For Informational Purposes Only

Item 18	July 09, 2012**	(1032544) For Informational Purposes Only
Item 19	August 06, 2012**	(1066043) For Informational Purposes Only
Item 20	August 24, 2012**	(1027503) For Informational Purposes Only
Item 21	September 10, 2012**	(1066044) For Informational Purposes Only
Item 22*	October 08, 2012**	(1066045) For Informational Purposes Only
Item 23*	November 15, 2012**	(1066046) For Informational Purposes Only
Item 24	November 21, 2012**	(1046316) For Informational Purposes Only
Item 25*	December 10, 2012**	(1066047) For Informational Purposes Only
Item 26*	January 10, 2013**	(1081134) For Informational Purposes Only
Item 27	January 23, 2013**	(1054593) For Informational Purposes Only
Item 28*	February 07, 2013**	(1081133) For Informational Purposes Only
Item 29*	March 07, 2013**	(1090352) For Informational Purposes Only
Item 30*	April 04, 2013**	(1096711) For Informational Purposes Only
Item 31*	May 09, 2013**	(1107672) For Informational Purposes Only
Item 32*	June 25, 2013**	(1111310) For Informational Purposes Only
Item 33	July 02, 2013**	(1100600) For Informational Purposes Only
Item 34*	July 10, 2013**	(1118208) For Informational Purposes Only
Item 35*	August 13, 2013**	(1126001) For Informational Purposes Only
Item 36*	September 05, 2013**	(1130552) For Informational Purposes Only
Item 37*	October 07, 2013**	(1136322) For Informational Purposes Only
Item 38	October 10, 2013**	(1121837) For Informational Purposes Only

		(1141701)
Item 39*	November 08, 2013**	For Informational Purposes Only
		(1148168)
Item 40*	December 09, 2013**	For Informational Purposes Only
		(1154239)
Item 41*	January 03, 2014**	For Informational Purposes Only
		(1161556)
Item 42*	February 07, 2014**	For Informational Purposes Only
		(1168190)
Item 43*	March 10, 2014**	For Informational Purposes Only
		(1175353)
Item 44*	April 09, 2014**	For Informational Purposes Only
		(1181544)
Item 45*	June 05, 2014**	For Informational Purposes Only
		(1194167)
Item 46*	July 07, 2014**	For Informational Purposes Only
		(1200159)
Item 47*	August 12, 2014**	For Informational Purposes Only
		(1206809)
Item 48*	September 04, 2014**	For Informational Purposes Only
		(1213219)
Item 49*	October 03, 2014**	For Informational Purposes Only
		(1219475)
Item 50*	November 10, 2014**	For Informational Purposes Only
		(1225260)
Item 51*	December 04, 2014**	For Informational Purposes Only
		(1232200)
Item 52*	January 09, 2015**	For Informational Purposes Only
		(1243275)
Item 53*	February 06, 2015**	For Informational Purposes Only
		(1249641)
Item 54*	March 05, 2015**	For Informational Purposes Only
		(1256525)
Item 55*	April 09, 2015**	For Informational Purposes Only
		(1263261)
Item 56*	June 15, 2015**	For Informational Purposes Only
		(1277929)
Item 57	July 07, 2015**	For Informational Purposes Only
		(1284104)
Item 58	August 10, 2015**	For Informational Purposes Only
		(1291262)
Item 59*	September 08, 2015	For Informational Purposes Only

Item 60*	October 08, 2015	(1297450) For Informational Purposes Only
Item 61	November 09, 2015	(1302894) For Informational Purposes Only
Item 62	December 11, 2015	(1309881) For Informational Purposes Only
Item 63*	January 08, 2016	(1316639) For Informational Purposes Only
Item 64	April 06, 2016	(1314672) For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2010 and 08/31/2015.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF BYERS
RN101720415**

§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2016-0548-MWD-E

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Byers (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this Order to the Commission.

The Respondent understands that they have certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility located approximately 400 feet east of Byers City Lake in Byers and approximately 4,000 feet northwest of the intersection of Farm-to-Market Road 171 and State Highway 79 in Clay County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. During a record review conducted on March 2, 2016, TCEQ staff documented the following permitted effluent violations from self-reported discharge monitoring reports ("DMRs"):

Effluent Violation Table					
	BOD (5-day)	<i>Escherichia coli</i>	Flow	Total Suspended Solids	
	Daily Average Conc.	Single Grab Conc.	Daily Average	Daily Average Conc.	Daily Average Loading
Month/Year	Limit = 20 mg/L	Limit = 399 CFU/100 ml	Limit = 0.043 MGD	Limit = 20 mg/L	Limit = 7.2 lbs/d
May 2015	c	c	0.0631	c	9.03
June 2015	c	c	0.099	c	c
July 2015	c	c	0.0717	c	c
October 2015	27	2,400	c	34.7	c
November 2015	21.3	c	c	30.8	c

BOD = biochemical oxygen demand

CFU/100 ml = colony-forming units per 100 milliliters

mg/L = milligrams per liter

MGD = million gallons per day

c = compliant

Conc. = concentration

lbs/d = pounds per day

II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, the Respondent failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010890001, Effluent Limitations and Monitoring Requirements No. 1.
3. Pursuant to TEX. WATER CODE § 7.051, the TCEQ has the authority to assess a penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of \$9,062 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent paid the \$9,062 penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 4 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Byers, Docket No. 2016-0548-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall, within 90 days after the effective date of this Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010890001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Boulevard
Abilene, Texas 79602-7833

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
10. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and

may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

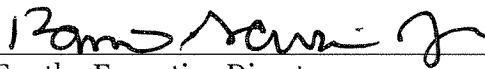
11. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



10/3/16

For the Executive Director

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions;
- and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

6/24/16

Date

Carl Barnhill

Name (Printed or typed)

Mayor

Title

Authorized Representative of
City of Byers

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Order.

☐ If mailing address has changed, please check this box and provide the new address below: